

DUNCAN MILLER

IBLA 79-253

Decided June 13, 1979

Appeal from decision of the Montana State Office, Bureau of Land Management, dismissing appellant's protest with regard to oil and gas leases M 10923 and M 11928 (ND).

Appeal Dismissed.

1. Appeals -- Rules of Practice: Appeals: Dismissal -- Rules of Practice: Appeals: Statement of Reasons

A statement of reasons in support of an appeal which does not point out affirmatively in what respect the decision appealed from is in error does not meet the requirements of the Department's rules of practice and may be dismissed.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Duncan Miller has appealed from a decision of the Montana State Office, Bureau of Land Management (BLM), dismissing his protest with respect to oil and gas leases M 10923 and M 11928 (ND). These leases were issued as a result of simultaneous filing procedures for a period of 10 years effective January 1, 1969, and May 1, 1969, respectively.

On February 5, 1979, appellant filed a protest with the Montana State Office with respect to the leasing that had been done in Montana in the matter of leases M 10923 and M 11928. Appellant contended that BLM had arbitrarily and wrongfully leased these oil and gas leases and protested BLM's actions in these particular cases as being unlawful. Appellant failed, however, to allege any specific instance of wrongdoing by BLM.

On February 8, 1979, the Montana State Office issued a decision explaining that appellant's contentions were a compilation of a series of meaningless allegations deserving no favorable consideration and dismissing the protest as unfounded.

In his appeal to this Board, appellant has submitted the following statement of reasons:

With respect to the simultaneous oil and gas lease filings, I hereby protest against your handling of the matter in that you are allowing those to participate who do not have the money available for payment but, rather, rely upon others in their stead. You must remember that the Department of the Interior must correct this situation because it shows a deplorable lack of integrity, and it is actually a disgrace to the Department of the Interior.

It is important to remember that the BLM offices do not recognize the truth of the foregoing. This leads to all kinds of fraud and corruption. In fact, the newspapers, etc. are just full of said fraud and corruption and the only way to do away with this is to stop the wrongful system the BLM offices have in connection with oil and gas simultaneous filings.

[1] We have reviewed the case file and conclude that appellant's allegations are lacking in specificity. They fail to demonstrate any error in the decision below and also do not point out how appellant has improperly been deprived of some right. Since the statement of reasons fails to point out how the decision appealed from is in error, it does not meet the requirements of the Department's rules of practice and the appeal therefore may be and is dismissed. Duncan Miller, 34 IBLA 283 (1978); Duncan Miller, 29 IBLA 174 (1977); Duncan Miller, 28 IBLA 62 (1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Douglas E. Henriques
Administrative Judge

I concur:

Anne Poindexter Lewis
Administrative Judge

ADMINISTRATIVE JUDGE BURSKI CONCURRING:

While I totally concur with the majority's dismissal of the instant appeal on the basis that appellant's "statement of reasons" does not indicate in what manner the decision being appealed is erroneous, I would also dismiss the instant appeal for a different reason.

The procedural rules of the Board clearly require that an individual be "adversely affected" as a precondition for invoking the Board's jurisdiction. 43 CFR 4.410. While it is true that under the broad protest provision found at 43 CFR 4.450-2, appellant could protest what he perceived as improper action, the mere fact that appellant's protest was denied does not, ipso facto, grant him status as an aggrieved party. On the contrary, as the Board has consistently held, "standing is an a priori requirement for an individual to raise any substantive matter within the Department's appellate structure." (Emphasis in original.) United States v. United States Pumice Co., 37 IBLA 153 (1978). See also Crooks Creek Commune, 10 IBLA 243 (1973). Absent a recognizable interest which is adversely affected, the denial of a protest does not confer appellate standing.

In the instant case, appellant has not shown in any way how he is adversely affected by the decision appealed. I would dismiss the appeal for this reason alone.

James L. Burski
Administrative Judge

